

**EXHIBIT 1**  
**MYRICK I COMPLAINT**

8  
FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2011 AUG -8 PM 1:31

BETTY J. GOULD, CLERK

7  
8  
SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

9  
10  
11  
12  
13  
14  
15  
16  
17  
AMANDA MYRICK, individually and as  
Guardian Ad Litem for S.A., a minor, and  
NATALIE BOND, individually and as  
Guardian Ad Litem for A.K., a minor,

Plaintiffs,

v.

OLYMPIA EARLY LEARNING CENTER,

Defendant.

NO. 11 2 01740 §

COMPLAINT FOR DAMAGES

18  
19  
20  
21  
22  
23  
24  
25  
26  
COMES NOW, Plaintiffs, Natalie Bond, individually and as limited GAL for A.K., a  
minor, and Amanda Myrick, individually and as Guardian Ad Litem for S.A., a minor, by and  
through their counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as  
follows:

I. PARTIES

1. Plaintiffs Amanda Myrick and minor child S.A., at all relevant times resided in  
Thurston County, Washington.

1           2.     Plaintiffs Natalie Bond and minor child A.K., at all relevant times, resided in  
2     Thurston County, Washington.

3           3.     Defendant Olympia Early Learning Center, at all relevant times conducted  
4     business in Thurston County, Washington. Defendant Olympia Early Learning Center  
5     operated at 201 Capital Way North and 420 McPhee Road SW, both in Olympia, Thurston  
6     County, Washington.

## 7                               II.     JURISDICTION AND VENUE

8           4.     Plaintiffs live in Thurston County, Washington. Defendant operates its  
9     business in Thurston County.

10          5.     The tortious conduct which is the subject of this complaint occurred in  
11     Thurston County, Washington. Jurisdiction and venue is proper.

## 12                              III.    FACTS

13          6.     Defendant Olympia Early Learning Center hired Elisha ("Eli") Eli Tabor as an  
14     employee on May 23, 2008. As Tabor has stated, Defendant hired him "on the spot" after his  
15     step-mother, Alana Tabor, an employee of Defendant Olympia Early Learning Center, alerted  
16     him to openings at the Center's West Olympia location where he then applied. In making this  
17     hire, Defendant Olympia Early Learning Center had a duty to protect its children by  
18     investigating Tabor's background, doing a reference check and conducting a complete  
19     interview designed to determine whether there were concerns about his character, behavior  
20     and conduct that could present a danger to the children. Defendant had an obligation to spend  
21     time doing a probationary training period assessing Tabor's suitability for childcare and  
22     establishing procedures to provide oversight to make sure neither Tabor nor any of the male  
23     staff used by Defendant would sexually molest the children. Defendant had an obligation to  
24     respond to any concerns with Tabor's conduct on the job and otherwise. Defendant neglected  
25     to do so with Tabor.  
26

1           7.     In October of 2008, a parent of several children attending Defendant's West  
2 Olympia facility, Lisa Steel, complained to Defendant's director of operations, Rose  
3 Horgdahl, that Elisha Tabor posed a danger to the young children at the facility.

4           8.     In November, 2008, Plaintiff Amanda Myrick enrolled her son S.A., age 3, in  
5 the Olympia Early Learning Center's facility.

6           9.     On February 10, 2009, Lisa Steel reported to the OELC that her daughter  
7 disclosed that she had been sexually abused at the facility. A physical examination of the  
8 young girl revealed a scratch -- consistent with a fingernail cut -- inside her vagina. Ms. Steel  
9 specifically advised the school that as a result of her daughter's disclosure it was believed that  
10 Eli Tabor sexually abused her daughter. Defendant then misdirected police and CPS  
11 investigators to another male employee named "Eli", a man named Eli Nelson, who became  
12 the subject of the investigation and passed a polygraph, resulting in the case being closed and  
13 deemed "unfounded". But Ms. Steel and her husband, Doug Thompson, consistently asserted  
14 during the investigation that the abuser was Elisha Tabor, so directly in fact that the  
15 Defendant's administrators complained about the "attacks" by Ms. Steel and Ms. Thompson  
16 on Elisha Tabor.

17           10.    Defendant made no effort whatsoever to re-evaluate Tabor's suitability for  
18 childcare or to monitor the level of danger he posed. It also failed to warn parents, including  
19 Plaintiff Natalie Bond and Plaintiff Amanda Myrick, about a potential danger posed by male  
20 staff members following the February 2009 investigation. The only action Defendant took  
21 was to move Tabor from the classroom for two-year-olds where he was molesting children to  
22 the classroom for the three- and four-year-olds where he began molesting children. Without a  
23 warning of any sort, Plaintiff Natalie Bond and Plaintiff Amanda Myrick continued taking  
24 their children to the facility for care by Tabor, among others. Without protections provided  
25 for the children, Tabor began molesting others in the daycare.  
26

11. On March 11, 2009, Plaintiff Natalie Bond enrolled her son, A.K., age 3, in the Olympia Early Learning Center's West Olympia facility.

12. On May 22, 2009, shortly after the Steel complaint, Kristi Barbieri reported that her two-year-old daughter had disclosed sexual abuse by "Eli." Again, Defendant misdirected police and CPS to Eli Nelson who again passed a polygraph, again prompting the investigation to be closed and deemed "unfounded".

13. Despite a second sexual abuse report involving "Eli" and a young child receiving care at the West Olympia facility, Defendant failed to warn parents about a danger and failed to take steps to protect the children from the danger posed by Tabor. Without a warning of any kind, Plaintiff Natalie Bond and Plaintiff Amanda Myrick continued taking their children to the facility for care with Tabor, among others. Without protections afforded the children, Tabor continued molesting children there.

14. On October 7, 2010, Tabor was arrested in Olympia for Driving Under the Influence and later convicted on November 8, 2010. Tabor admitted to a severe drinking problem during this time. He later acknowledged that he molested Plaintiff Amanda Myrick's son while drinking.

15. On February 3, 2011, Eli Tabor was arrested for the rape of a child who attended the Olympia Early Learning Center. Tabor plead guilty to counts of Rape of a Child in the First Degree and Child Molestation in the First Degree on May 26, 2011, receiving nearly twenty years in prison as his sentence. He has specifically pleaded guilty to the rape of the minor Plaintiff, S.A.

**A. Negligence – Defendant Olympia Early Learning Center's negligent care and supervision of and negligent hiring, training, supervision and retention of its employee.**

9. Plaintiffs incorporate all paragraphs above and below.

1           10. Defendant Olympia Early Learning Center contracted with Plaintiffs and  
2           undertook the duty to provide care and supervision for minor Plaintiffs S.A. and A.K., and  
3           was responsible for their care and supervision while they attended its care facility. Defendant  
4           specifically invited Plaintiff parents to rely on Defendant Olympia Early Learning Center to  
5           care for and supervise minor Plaintiffs. Plaintiff parents, justifiably relied on Defendant  
6           Olympia Early Learning Center to exercise reasonable care in performing those duties.  
7           Defendant Olympia Early Learning Center owed a duty to exercise reasonable care in the  
8           investigation of, the hiring of, the probationary assessment of, the retention of, and the  
9           monitoring of its employee, Eli Tabor.  
10

11           11. Defendant Olympia Early Learning Center breached its duty to provide for the  
12           reasonable care and protection of the minor Plaintiffs. Defendant Olympia Early Learning  
13           Center knew and breached its duty to investigate the dangerous propensities of its employee,  
14           Eli Tabor. Defendant Olympia Early Learning Center failed to exercise reasonable care of  
15           hiring, assessment, retention and monitoring of Eli Tabor, and failed to implement procedures  
16           to assure that Eli Tabor would not be left unsupervised with children, including the minor  
17           Plaintiffs here.  
18

19           12. Defendant Olympia Early Learning Center breached its duty to provide  
20           reasonable care. Defendant Olympia Early Learning Center failed to implement procedures to  
21           assure that the minor Plaintiffs were safe from Eli Tabor.

22           13. Defendant's negligence directly and proximately caused significant damages.  
23           Specifically, minor Plaintiffs were sexually abused by an adult male staff member of  
24           Defendant Olympia Early Learning Center.

25           14. The sexual abuse of the minor Plaintiffs has caused damage to the relationship  
26           between the minors and their parents, Amanda Myrick and Natalie Bond. The minor

1 Plaintiffs have shown signs of premature sexualization. Plaintiff parents must now deal with  
 2 the sexual abuse of the minor Plaintiffs at the hands of Defendant Olympia Early Learning  
 3 Center's staff member.

4  
 5 15. As a direct and proximate result of each of the negligent acts committed by  
 6 Defendant Olympia Early Learning Center, the Plaintiffs sustained damages in an amount to  
 7 be proven at trial.

8 **B. RCW 4.24.010 Loss of Consortium**

9 16. Plaintiffs incorporate all paragraphs above and below.

10 17. Plaintiff Amanda Myrick and Natalie Bond are the parents of minors S.A. and  
 11 A.K. respectively. As a direct and proximate result of Defendant's tortuous conduct, Plaintiffs  
 12 Amanda Myrick and Nicole Bond have suffered a loss of consortium with their children. The  
 13 trauma and stress caused by the abuse at Defendant Olympia Early Learning Center harmed  
 14 their otherwise happy relationships with their children.

15 **C. Breach of Contract**

16 18. Plaintiffs incorporate all paragraphs above and below.

17  
 18 19. Plaintiffs Amanda Myrick and Nicole Bond entered into valid contracts for  
 19 services with Defendant Olympia Early Learning Center.

20 20. Defendant Olympia Early Learning Center knew or should have known the  
 21 dangerous proclivities of Eli Tabor.

22 21. Defendant Olympia Early Learning Center materially breached these contracts  
 23 by failing to provide reasonable care and supervision as promised for Plaintiffs.

24 22. Defendant Olympia Early Learning Center retained full payment for services  
 25 despite its failure to provide said services.  
 26



23. Plaintiffs are entitled to restitution for tuition payment provided to Defendant Olympia Early Learning Center, in addition to prejudgment interest.

#### **D. Breach of Implied Warranty**

24. Plaintiffs incorporate all paragraphs above and below.

25. Defendants Olympia Early Learning Center implicitly warranted that the daycare would provide reasonable supervision and care for Plaintiffs. Defendant knew or should have known the danger posed by Eli Tabor. However, Defendant Olympia Early Learning Center failed to provide reasonable supervision and care for Plaintiffs. This was a direct violation of Defendant's implied warranty to Plaintiffs.

#### **IV. SPOILIATION OF EVIDENCE**

26. Plaintiffs believe and therefore allege that various employees of Defendant Olympia Early Learning Center have destroyed key records concerning the knowledge the Defendant possessed about the danger Tabor posed to children. Plaintiffs seek a monetary recovery for the value of the destroyed evidence or, in the alternative, a presumption at trial that the evidence destroyed established Defendant's liability in the case.

#### **VII. INJURIES AND DAMAGES**

27. Plaintiffs incorporate all paragraphs above.

28. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs have suffered medical costs in an amount to be determined at trial. These special damages are continuing.

29. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs have suffered damages including severe emotional distress, depression, anxiety, humiliation, embarrassment, and other physical and psychological symptoms in an amount to be proven at trial. These general damages are continuing.



VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendant, for the general and special damages as allowed by law, for attorneys' fees and litigation costs in maintaining this action, and for prejudgment interest and such other relief as the Court may deem just.

Dated this 2nd day of August, 2011.

PFAU COCHRAN VERTETIS AMALA PLLC

By



Darrell Cochran, WSBA No. 22851

[darrell@pcvalaw.com](mailto:darrell@pcvalaw.com)

Harold Carr, WSBA No. 11767

[Haroldcarrlaw@comcast.net](mailto:Haroldcarrlaw@comcast.net)

Attorneys for Plaintiffs

4842-2467-0218, v. 3

**EXHIBIT 2**  
**MYRICK II COMPLAINT**

8

**ORIGINAL**

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

THE HONORABLE William Thomas McPhee

2012 APR 12 AM 11:32

BETTY J. GOULD, CLERK

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

AMANDA MYRICK, individually and as  
GAL for S.A., a minor, and NICOLE BOND,  
individually and as GAL for A.K., a minor,,  
Plaintiffs,

vs.

STEVE OLSEN, individually, and ROSE  
HORGDAHL, individually,

Defendant.

12 2 00789 3

NO.

COMPLAINT

COMES NOW, Plaintiffs, Nicole Bond, individually and as limited GAL for A.K., a  
minor, and Amanda Myrick, individually and as Guardian Ad Litem for S.A., a minor, by and  
through their counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as  
follows:

**I. PARTIES**

1. Plaintiffs Amanda Myrick and minor child S.A., at all relevant times resided in  
Thurston County, Washington.

2. Plaintiffs Nicole Bond and minor child A.K., at all relevant times, resided in  
Thurston County, Washington.

3. Defendant Steve Olsen, at all relevant times, resided and conducted business in Thurston County, Washington. Defendant Steve Olsen acted as the Executive Director of the Olympia Early Learning Center operated at 201 Capital Way North and 420 McPhee Road SW, both in Olympia, Thurston County, Washington. Defendant Rose Horgdahl, at all relevant times, also resided and conducted business in Thurston County, Washington. Defendant Rose Horgdahl acted as the site and/or program director for the Olympia Early Learning Center.

## II. JURISDICTION AND VENUE

4. Plaintiffs live in Thurston County, Washington. Defendants worked in Thurston County.

5. The tortious conduct which is the subject of this complaint occurred in Thurston County, Washington. Jurisdiction and venue is proper.

## III. FACTS

6. Defendants were involved in the hiring of Elisha ("Eli") Tabor as an employee on May 23, 2008. As Tabor has stated, Defendants hired him "on the spot" after his step-mother, Alana Tabor, an employee of Olympia Early Learning Center, alerted him to openings at the Center's West Olympia location where he then applied. In making this hire, Defendants had a duty to protect its children by investigating Tabor's background, doing a reference check and conducting a complete interview designed to determine whether there were concerns about his character, behavior and conduct that could present a danger to the children. Defendants had an obligation to spend time doing a probationary training period assessing Tabor's suitability for childcare and establishing procedures to provide oversight to

1 make sure neither Tabor nor any of the male staff used by Defendants would sexually molest  
2 the children. Defendants had an obligation to respond to any concerns with Tabor's conduct  
3 on the job and otherwise. Defendants neglected to do so with Tabor.

4 7. In October of 2008, a parent of several children attending the West Olympia  
5 facility, Lisa Steel, complained to Defendant Rose Horgdahl, that Elisha Tabor posed a  
6 danger to the young children at the facility.

7 8. In November, 2008, Plaintiff Amanda Myrick enrolled her son S.A., age 3, in  
8 the Olympia Early Learning Center's facility.

9 9. On February 10, 2009, Lisa Steel reported to the OELC that her daughter  
10 disclosed that she had been sexually abused at the facility. A physical examination of the  
11 young girl revealed a scratch -- consistent with a fingernail cut -- inside her vagina. Ms. Steel  
12 specifically advised the school that as a result of her daughter's disclosure it was believed that  
13 Eli Tabor sexually abused her daughter. Defendant Rose Horgdahl then misdirected police  
14 and CPS investigators to another male employee named "Eli", a man named Eli Nelson, who  
15 became the subject of the investigation and passed a polygraph, resulting in the case being  
16 closed and deemed "unfounded". But Ms. Steel and her husband, Doug Thompson,  
17 consistently asserted during the investigation that the abuser was Elisha Tabor, so directly in  
18 fact that the Defendant Horgdahl and others complained about the "attacks" by Ms. Steel and  
19 Ms. Thompson on Elisha Tabor.

20 10. Defendants made no effort whatsoever to re-evaluate Tabor's suitability for  
21 childcare or to monitor the level of danger he posed. They also failed to warn parents,  
22 including Plaintiff Natalie Bond and Plaintiff Amanda Myrick, about a potential danger posed  
23  
24  
25  
26

1 by male staff members following the February 2009 investigation. The only action  
2 Defendants took was to move Tabor from the classroom for two-year-olds where he was  
3 molesting children to the classroom for the three- and four-year-olds where he began  
4 molesting children. Without a warning of any sort, Plaintiff Natalie Bond and Plaintiff  
5 Amanda Myrick continued taking their children to the facility for care by Tabor, among  
6 others. Without protections provided for the children, Tabor began molesting others in the  
7 daycare.  
8

9 11. On March 11, 2009, Plaintiff Natalie Bond enrolled her son, A.K., age 3, in the  
10 Olympia Early Learning Center's West Olympia facility.

11 12. On May 22, 2009, shortly after the Steel complaint, Kristi Barbieri reported  
12 that her two-year-old daughter had disclosed sexual abuse by "Eli." Again, Defendants  
13 misdirected police and CPS to Eli Nelson who again passed a polygraph, again prompting the  
14 investigation to be closed and deemed "unfounded".  
15

16 13. Despite a second sexual abuse report involving "Eli" and a young child  
17 receiving care at the West Olympia facility, Defendants failed to warn parents about a danger  
18 and failed to take steps to protect the children from the danger posed by Tabor. Without a  
19 warning of any kind, Plaintiff Natalie Bond and Plaintiff Amanda Myrick continued taking  
20 their children to the facility for care with Tabor, among others. Without protections afforded  
21 the children, Tabor continued molesting children there.  
22

23 14. In July 2010, Defendants received a report that Eli Tabor was lying about  
24 kissing minor – Plaintiff S.A. on a sleeping mat in one of the Learning Center Classrooms.  
25  
26

1 Defendant Horgdahl wrote a discipline note for "Eli" Tabor about the conduct but neither she  
2 nor Defendant Olsen took further action.

3 15. On October 7, 2010, Tabor was arrested in Olympia for Driving Under the  
4 Influence and later convicted on November 8, 2010. Tabor admitted to a severe drinking  
5 problem during this time. He later acknowledged that he molested Plaintiff Amanda Myrick's  
6 son while drinking.  
7

8 16. On February 3, 2011, Eli Tabor admitted to dozens of acts of sexual abuse,  
9 including anal sodomy, oral sodomy and other acts of sexual abuse. He was arrested for the  
10 rape of a child who attended the Olympia Early Learning Center. Tabor plead guilty to counts  
11 of Rape of a Child in the First Degree and Child Molestation in the First Degree on May 26,  
12 2011, receiving nearly twenty years in prison as his sentence. He has specifically plead guilty  
13 to the rape of the minor Plaintiff, S.A.  
14

15 **A. Negligence – Defendants' negligent care and supervision of and negligent**  
16 **hiring, training, supervision and retention of its employee.**

17 17. Plaintiffs incorporate all paragraphs above and below.

18 18. As directors of the Olympia Early Learning Center, Defendants Steve Olsen  
19 and Rose Horgdahl assumed responsibility to provide care and supervision for the minor  
20 plaintiffs and were responsible for their care and supervision while they attended its care  
21 facility. Defendants specifically invited the Plaintiff parents to rely on Defendants to care for  
22 and supervise the minor plaintiffs. Plaintiff parents justifiably relied on Defendants to  
23 exercise reasonable care in performing those duties. Defendants owed a duty to exercise  
24 reasonable care in the investigation of, the hiring of, the probationary assessment of, the  
25 retention of, the monitoring of and/or its male staff.  
26



19. Defendants breached their duty to provide for the reasonable care and protection of the minor Plaintiffs. Defendants knew and breached their duty to investigate the dangerous propensities of their employee, Eli Tabor. Defendants failed to exercise reasonable care of hiring, assessment, retention and monitoring of Eli Tabor, and failed to implement procedures to assure that Eli Tabor would not be left unsupervised with children, including the minor Plaintiffs here.

20. Defendants breached their duty to provide reasonable care. Defendants failed to implement procedures to assure that the minor Plaintiffs were safe from Eli Tabor.

21. Defendants' negligence directly and proximately caused significant damages. Specifically, minor Plaintiffs were sexually abused by one of their adult male staff members.

22. The sexual abuse of the minor Plaintiffs has caused damage to the relationship between the minors and their parents, Amanda Myrick and Nicole Bond. The minor Plaintiffs have shown signs of premature sexualization. Plaintiff parents must now deal with the sexual abuse of the minor Plaintiffs at the hands of Defendants' staff member.

23. As a direct and proximate result of each of the negligent acts committed by Defendants, the Plaintiffs sustained damages in an amount to be proven at trial.

#### **B. RCW 4.24.010 Loss of Consortium**

24. Plaintiffs incorporate all paragraphs above and below.

25. Plaintiff Amanda Myrick and Nicole Bond are the parents of minors S.A. and A.K. respectively. As a direct and proximate result of Defendants' tortuous conduct, Plaintiffs Amanda Myrick and Nicole Bond have suffered a loss of consortium with their children. The trauma and stress caused by the abuse at Olympia Early Learning Center, directed by

1 Defendants Steve Olsen and Rose Horgdahl harmed their otherwise happy relationships with  
2 their children.

#### 3 IV. SPOILIATION OF EVIDENCE

4 26. Plaintiffs believe and therefore allege that various employees of Defendants  
5 have destroyed key records concerning the knowledge the Defendants possessed about the  
6 danger Tabor posed to children. Plaintiffs seek a monetary recovery for the value of the  
7 destroyed evidence or, in the alternative, a presumption at trial that the evidence destroyed  
8 established Defendants' liability in the case.  
9

#### 10 V. INJURIES AND DAMAGES

11 27. Plaintiffs incorporate all paragraphs above.

12 28. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs  
13 have suffered medical costs in an amount to be determined at trial. These special damages are  
14 continuing.  
15

16 29. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs  
17 have suffered damages including severe emotional distress, depression, anxiety, humiliation,  
18 embarrassment, and other physical and psychological symptoms in an amount to be proven at  
19 trial. These general damages are continuing.  
20

#### 21 VI. PRAYER FOR RELIEF

22 WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendants,  
23 jointly and severally, for the general and special damages as allowed by law, for attorneys'  
24 fees and litigation costs in maintaining this action, and for prejudgment interest and such other  
25  
26

1 relief as the Court may deem just.

2 Dated this 11<sup>th</sup> day of April, 2012.

3  
4 PFAU COCHRAN VERTETIS AMALA, PLLC

5  
6 By  \_\_\_\_\_

7  
8 Darrell L. Cochran, WSBA No. 22851  
9 darrell@pcvalaw.com  
10 Attorneys for Plaintiffs

**EXHIBIT 3**  
**STEEL I COMPLAINT**

8  
FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2011 JUN -9 AM 11:33

BETTY J. GOULD, CLERK

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

LISA STEEL, individually and as GAL for  
J.E., a minor and DOUGLAS THOMPSON,  
and KRISTI BARBIERI, individually and as  
GAL for S.R.B.,

Plaintiffs,

vs.

OLYMPIA EARLY LEARNING CENTER,

Defendant.

NO. 11-2-00995-2

AMENDED COMPLAINT FOR  
DAMAGES

Plaintiffs, Lisa Steel, individually and as limited GAL for J.E., a minor, and Douglas Thompson, as well as Plaintiff, Kristi Barbieri and her minor daughter, S.R.B., by and through their counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as follows:

I. PARTIES

1. Plaintiffs Lisa Steel and Douglas Thompson, husband and wife, at all relevant times, resided in Thurston County, Washington.

2. Plaintiff J.E., a minor, at all relevant times resided in Thurston County, Washington.

AMENDED COMPLAINT FOR DAMAGES 1 of 8  
11-2-00995-2

 PFAU COCHRAN  
VERTETIS AMALA  
A Professional Limited Liability Company

911 Pacific Avenue, Suite 200  
Tacoma, WA 98402  
Phone: (253) 777-0799 Facsimile: (253) 627-0654

ORIGINAL

1           3.     Plaintiff, Kristi Barbieri, a single woman, at all relevant times, resided in  
2     Thurston County, Washington.

3           4.     Plaintiff, S.R.B., a minor, at all relevant times, resided in Thurston County,  
4     Washington.

5           5.     Defendant Olympia Early Learning Center, at all relevant times conducted  
6     business in Thurston County, Washington. Defendant Olympia Early Learning Center  
7     operated at 201 Capital Way North and 420 McPhee Road SW, both in Olympia, Thurston  
8     County, Washington.

9                               **II.       JURISDICTION AND VENUE**

10           1.     Plaintiffs live in Thurston County, Washington. Defendant operates its  
11     business in Thurston County.

12           2.     The tortious conduct which is the subject of this complaint occurred in  
13     Thurston County, Washington. Jurisdiction and venue is proper.

14                               **III.       FACTS**

15           1.     Plaintiff Kristi Barbieri enrolled her daughter, S.R.B., into the Olympia Early  
16     Learning Center on January 22, 2007. S.R.B. was six weeks old at the time of enrollment.  
17     Plaintiff Lisa Steel and Doug Thompson enrolled their daughter, J.E., in the Olympia Early  
18     Learning Center at the McPhee Road location. J.E. was 2 years old at the time. Defendant  
19     hired Eli Tabor as an employee in the May 2008. In doing so, Defendant Olympia Early  
20     Learning Center had a duty to protect its children by investigating Tabor's background and  
21     conducting a complete interview designed to determine whether he was a pedophile.  
22     Defendant also should have spent time doing a probationary training period assessing Tabor's  
23     background and conducting a complete interview designed to determine whether he was a pedophile.  
24     Defendant also should have spent time doing a probationary training period assessing Tabor's  
25     background and conducting a complete interview designed to determine whether he was a pedophile.  
26     Defendant also should have spent time doing a probationary training period assessing Tabor's

1 suitability for childcare and establishing procedures to provide oversight to make sure neither  
 2 Tabor nor any of the male staff used by Defendant would sexually molest the children.  
 3 Defendant should have known that Tabor was a danger to small children.

4       2.       On February 10, 2009, Mr. Tabor sexually assaulted minor J.E. On February  
 5 10, 2009 J.E. reported that "Eli" had inappropriately touched her. J.E. was taken to Mary  
 6 Bridge Hospital for evaluation and her disclosures were consistent. Plaintiff Lisa Steel and  
 7 her husband Douglas Thompson advised Olympia Early Learning Center that her daughter  
 8 had disclosed sexual abuse by staff member "Eli".

9  
 10       3.       On May 20, 2009, Mr. Tabor sexually assault minor S.R.B. On May 20, 2009,  
 11 S.R.B. yelled "Eli, owie, mom!" describing pain to her vaginal area when Ms. Barbieri sat  
 12 her daughter into a tub of bathwater. Ms. Barbieri took her daughter to St. Peter's Hospital  
 13 where S.R.B. was interviewed by Social Workers and the Olympia Police Department and  
 14 gave the same statements. Ms. Barbieri advised the Olympia Early Learning Center that her  
 15 daughter had disclosed sexual abuse by staff member "Eli."

16       4.       Based on information and belief it is asserted that Defendant Olympia Early  
 17 Learning Center failed to take any action against staff member Eli Tabor or to protect the  
 18 children at the facility.

19       5.       On February 14, 2011, Eli Tabor was arrested for the rape of a child who  
 20 attended the Olympia Early Learning Center.

21  
 22  
 23       A.       **Negligence** – Defendant Olympia Early Learning Center's negligent care  
 24 and supervision of and negligent hiring, training, supervision and  
 25 retention of its employee.

26       1.       Plaintiffs incorporate all paragraphs above and below.



1           2. Defendants Olympia Early Learning Center contracted with Plaintiffs and  
2           undertook the duty to provide care and supervision for the minor plaintiffs and was  
3           responsible for their care and supervision while they attended its care facility. Defendants  
4           specifically invited the Plaintiff parents to rely on Defendant Olympia Early Learning Center  
5           to care for and supervise the minor plaintiffs. Plaintiff parents justifiably relied on Defendant  
6           Olympia Early Learning Center to exercise reasonable care in performing those duties.  
7           Defendant Olympia Early Learning Center owed a duty to exercise reasonable care in the  
8           investigation of, the hiring of, the probationary assessment of, the retention of, the monitoring  
9           of and/or its male staff.  
10

11           3. Defendant Olympia Early Learning Center breached its duty to provide for the  
12           reasonable care and protection of the minor plaintiffs. Defendant Olympia Early Learning  
13           Center knew and breached its duty to investigate the dangerous propensities of Eli Tabor  
14           and/or its other male staff. Defendant Olympia Early Learning Center failed to exercise  
15           reasonable care of hiring, assessment, retention and monitoring of Eli Tabor, and failed to  
16           implement procedures to assure that Eli Tabor and/or its male staff would not be left  
17           unsupervised with children, including the minor plaintiffs.  
18

19           4. Defendant Olympia Early Learning Center breached its duty to provide  
20           reasonable care. Defendant Olympia Early Learning Center failed to implement procedures to  
21           assure that the minor plaintiffs were safe from Eli Tabor and/or its other male staff.  
22

23           5. Defendant's negligence directly and proximately caused significant damages.  
24           Specifically, the minor plaintiffs were sexually abused by an adult male staff member of  
25           Defendant Olympia Early Learning Center.  
26

6. The sexual abuse of the minor plaintiffs has caused damage to the relationship between the minor plaintiffs and their parents. Plaintiff J.E. has shown signs of premature sexualization. Plaintiffs must now deal with the sexual abuse of the minor plaintiffs at the hands of Defendant Olympia Early Learning Center's staff member.

7. As a direct and proximate result of each of the negligent acts committed by Defendant Olympia Early Learning Center, the Plaintiffs sustained damages in an amount to be proven at trial.

**B. RCW 4.24.010 Loss of Consortium**

1. Plaintiffs incorporate all paragraphs above and below.

2. Plaintiff Lisa Steel and Douglas Thompson are the parents of Plaintiff J.E., and have supported her since her birth. As a direct and proximate result of Defendant's tortious conduct, Plaintiffs Lisa Steel and Douglas Thompson have suffered a loss of consortium with their daughter Plaintiff J.E. The trauma and stress caused by Plaintiff J.E.'s mistreatment and abuse at Defendant Olympia Early Learning Center harmed an otherwise happy relationship with Plaintiff J.E. The effects continue to this day.

3. Plaintiff Kristi Barbieri is the adoptive parent of Plaintiff S.R.B. As a direct and proximate result of Defendant's tortious conduct, Plaintiff Kristi Barbieri has suffered a loss of consortium with her daughter, Plaintiff S.R.B. The trauma and stress caused by Plaintiff S.R.B.'s mistreatment and abuse at Defendant Olympia Early Learning Center harmed an otherwise happy relationship with Plaintiff S.R.B. The effects continue to this day.

1           C.     Breach of Contract

2           1.     Plaintiffs incorporate all paragraphs above and below.

3           2.     Plaintiffs Lisa Steel and Douglas Thompson, and Kristi Barbieri entered valid  
4 contract for services with Defendant Olympia Early Learning Center.

5           3.     Defendant Olympia Early Learning Center knew or should have known the  
6 dangerous proclivities of Eli Tabor and should have protected the minor plaintiffs from the  
7 foreseeable harm of sexual abuse presented by male staff members.

8           4.     Defendant Olympia Early Learning Center materially breached the contracts  
9 by failing to provide reasonable care, supervision and protection of the minor plaintiffs.  
10

11          5.     Defendant Olympia Early Learning Center retained full payment for services  
12 despite its failure to provide said services.

13          6.     Plaintiffs are entitled to restitution for tuition payment provided to Defendant  
14 Olympia Early Learning Center, in addition to prejudgment interest.  
15

16           D.     Breach of Implied Warranty

17          1.     Plaintiffs incorporate all paragraphs above and below.

18          2.     Defendants Olympia Early Learning Center implicitly warranted that the  
19 daycare would provide safe and reasonable supervision, care and protection for the minor  
20 plaintiffs. Defendant knew or should have known the dangerous propensity of Elisha Tabor.  
21 But Defendant Olympia Early Learning Center failed to provide safe and reasonable  
22 supervision, care and protection for the minor plaintiffs. This was a direct violation of  
23 Defendant's implied warranty to Plaintiffs.  
24  
25  
26

IV. INJURIES AND DAMAGES

1. Plaintiffs incorporate all paragraphs above.

2. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs have suffered medical costs in an amount to be determined at trial. These special damages are continuing.

3. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs have suffered damages including severe emotional distress, depression, anxiety, humiliation, embarrassment, and other physical and psychological symptoms in an amount to be proven at trial. These general damages are continuing.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendant, for the general and special damages as allowed by law, for attorneys' fees and litigation costs in maintaining this action, and for prejudgment interest and such other relief as the Court may deem just.

Dated this 7th day of June, 2011.

PFAU COCHRAN VERTETIS AMALA, PLLC

By Darrell L. Cochran

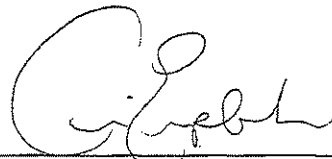
Darrell L. Cochran, WSBA No. 22851  
darrell@pcvalaw.com  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, **Ami Erpenbach**, hereby declare under penalty of perjury under the laws of the State of Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's date, I served via Legal Messenger / U.S. Regular Mail / Facsimile, indicated below, by directing delivery to the following individuals:

Michael C. Bolasina  
Summit Law Group  
315 Fifth Avenue South, Suite 100  
Seattle, WA 98104 -2682  
Attorney for: Olympia Early Learning Center

DATED this 7th day of June, 2011.



Ami Erpenbach  
Legal Assistant to Darrell L. Cochran

4828-2768-9737, v. 1

AMENDED COMPLAINT FOR DAMAGES 8 of 8  
11-2-00995-2

**PF** **PEAU COCHRAN**  
**VERTETIS AMALA**  
A Professional Limited Liability Company

911 Pacific Avenue, Suite 200  
Tacoma, WA 98402  
Phone: (253) 777-0799 Facsimile: (253) 627-0654

**EXHIBIT 4**  
**STEEL II COMPLAINT**

ORIGINAL

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2012 APR 12 AM 11:31 THE HONORABLE William Thomas McPhee

BETTY J. GOULD, CLERK

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

LISA STEEL, individually and as GAL for  
J.T., a minor and DOUGLAS THOMPSON,  
and KRISTI BARBIERI, individually and as  
GAL for S.R.B.,

Plaintiffs,

vs.

STEVE OLSEN, individually, and ROSE  
HORGDAHL, individually,

Defendant.

12 2 00790 7

COMPLAINT

Plaintiffs, Lisa Steel, individually and as limited GAL for J.E., a minor, and Douglas Thompson, as well as Plaintiff, Kristi Barbieri and her minor daughter, S.R.B., by and through their counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as follows:

I. PARTIES

1. Plaintiffs Lisa Steel and Douglas Thompson, husband and wife, at all relevant times, resided in Thurston County, Washington.

2. Plaintiff J.E., a minor, at all relevant times resided in Thurston County, Washington.



1           3.     Plaintiff, Kristi Barbieri, a single woman, at all relevant times, resided in  
2     Thurston County, Washington.

3           4.     Plaintiff, S.R.B., a minor, at all relevant times, resided in Thurston County,  
4     Washington.

5           5.     Defendant Steve Olsen, at all relevant times, resided and conducted business in  
6     Thurston County, Washington. Defendant Steve Olsen acted as the Executive Director of the  
7     Olympia Early Learning Center operated at 201 Capital Way North and 420 McPhee Road  
8     SW, both in Olympia, Thurston County, Washington. Defendant Rose Horgdahl, at all  
9     relevant times, also resided and conducted business in Thurston County, Washington.  
10    Defendant Rose Horgdahl acted as the site and/or program director for the Olympia Early  
11    Learning Center.  
12

## 13                               II.     JURISDICTION AND VENUE

14           6.     Plaintiffs live in Thurston County, Washington. Defendants worked in  
15     Thurston County.  
16

17           7.     The tortious conduct which is the subject of this complaint occurred in  
18     Thurston County, Washington. Jurisdiction and venue is proper.

## 19                               III.    FACTS

20           8.     Plaintiff Kristi Barbieri enrolled her daughter, S.R.B., into the Olympia Early  
21     Learning Center on January 22, 2007. S.R.B. was six weeks old at the time of enrollment.  
22     Plaintiff Lisa Steel and Doug Thompson enrolled their daughter, J.E., in the Olympia Early  
23     Learning Center at the McPhee Road location. J.E. was 2 years old at the time. Defendants  
24     were involved in the hiring of Eli Tabor as an employee in the May 2008. In doing so,  
25       
26

1 Defendants had a duty to protect its children by investigating Tabor's background and  
2 conducting a complete interview designed to determine whether he was a pedophile.  
3 Defendants also should have spent time doing a probationary training period assessing Tabor's  
4 suitability for childcare and establishing procedures to provide oversight to make sure neither  
5 Tabor nor any of the male staff used by Defendants would sexually molest the children.  
6 Defendant should have known that Tabor was a danger to small children.  
7

8 9. On February 10, 2009, Mr. Tabor sexually assaulted minor J.E. On February  
9 10, 2009 J.E. reported that "Eli" had inappropriately touched her. J.E. was taken to Mary  
10 Bridge Hospital for evaluation and her disclosures were consistent. Plaintiff Lisa Steel and  
11 her husband Douglas Thompson advised Olympia Early Learning Center that her daughter  
12 had disclosed sexual abuse by staff member "Eli".  
13

14 10. On May 20, 2009, Mr. Tabor sexually assault minor S.R.B. On May 20, 2009,  
15 S.R.B. yelled "Eli, owie, mom!" describing pain to her vaginal area when Ms. Barbieri sat  
16 her daughter into a tub of bathwater. Ms. Barbieri took her daughter to St. Peter's Hospital  
17 where S.R.B. was interviewed by Social Workers and the Olympia Police Department and  
18 gave the same statements. Ms. Barbieri advised the Olympia Early Learning Center that her  
19 daughter had disclosed sexual abuse by staff member "Eli."  
20

21 11. Based on information and belief it is asserted that Defendants failed to take any  
22 action against staff member Eli Tabor or to protect the children at the facility.

23 12. On February 14, 2011, Eli Tabor was arrested for the rape of a child who  
24 attended the Olympia Early Learning Center.  
25  
26

1           A.     **Negligence – Defendants’ negligent care and supervision of and negligent**  
 2           **hiring, training, supervision and retention of its employee.**

3                     Plaintiffs incorporate all paragraphs above and below.

4           13.     As directors of the Olympia Early Learning Center, Defendants Steve Olsen  
 5           and Rose Horgdahl assumed responsibility to provide care and supervision for the minor  
 6           plaintiffs and were responsible for their care and supervision while they attended its care  
 7           facility. Defendants specifically invited the Plaintiff parents to rely on Defendants to care for  
 8           and supervise the minor plaintiffs. Plaintiff parents justifiably relied on Defendants to  
 9           exercise reasonable care in performing those duties. Defendants owed a duty to exercise  
 10          reasonable care in the investigation of, the hiring of, the probationary assessment of, the  
 11          retention of, the monitoring of and/or its male staff.

12          14.     Defendants breached their duty to provide for the reasonable care and  
 13          protection of the minor plaintiffs. Defendants knew and breached their duty to investigate the  
 14          dangerous propensities of Eli Tabor and/or its other male staff. Defendants failed to exercise  
 15          reasonable care of hiring, assessment, retention and monitoring of Eli Tabor, and failed to  
 16          implement procedures to assure that Eli Tabor and/or its male staff would not be left  
 17          unsupervised with children, including the minor plaintiffs.

18          15.     Defendants breached their duty to provide reasonable care. Defendants failed  
 19          to implement procedures to assure that the minor plaintiffs were safe from Eli Tabor and/or its  
 20          other male staff.

21          16.     Defendants’ negligence directly and proximately caused significant damages.  
 22          Specifically, the minor plaintiffs were sexually abused by an adult male staff member of  
 23          Olympia Early Learning Center.  
 24  
 25  
 26

17. The sexual abuse of the minor plaintiffs has caused damage to the relationship between the minor plaintiffs and their parents. Plaintiff J.E. has shown signs of premature sexualization. Plaintiffs must now deal with the sexual abuse of the minor plaintiffs at the hands of Defendants' staff member.

18. As a direct and proximate result of each of the negligent acts committed by Defendants, the Plaintiffs sustained damages in an amount to be proven at trial.

**B. RCW 4.24.010 Loss of Consortium**

Plaintiffs incorporate all paragraphs above and below.

19. Plaintiff Lisa Steel and Douglas Thompson are the parents of Plaintiff J.E., and have supported her since her birth. As a direct and proximate result of Defendants' tortious conduct, Plaintiffs Lisa Steel and Douglas Thompson have suffered a loss of consortium with their daughter Plaintiff J.E. The trauma and stress caused by Plaintiff J.E.'s mistreatment and abuse at Olympia Early Learning Center harmed an otherwise happy relationship with Plaintiff J.E. The effects continue to this day.

20. Plaintiff Kristi Barbieri is the adoptive parent of Plaintiff S.R.B. As a direct and proximate result of Defendants' tortious conduct, Plaintiff Kristi Barbieri has suffered a loss of consortium with her daughter, Plaintiff S.R.B. The trauma and stress caused by Plaintiff S.R.B.'s mistreatment and abuse at Olympia Early Learning Center harmed an otherwise happy relationship with Plaintiff S.R.B. The effects continue to this day.

**IV. INJURIES AND DAMAGES**

Plaintiffs incorporate all paragraphs above.

21. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered medical costs in an amount to be determined at trial. These special damages are continuing.

22. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered damages including severe emotional distress, depression, anxiety, humiliation, embarrassment, and other physical and psychological symptoms in an amount to be proven at trial. These general damages are continuing.

#### V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendants, jointly and severally, for the general and special damages as allowed by law, for attorneys' fees and litigation costs in maintaining this action, and for prejudgment interest and such other relief as the Court may deem just.

Dated this 11<sup>th</sup> day of April, 2012.

PFAU COCHRAN VERTETIS AMALA, PLLC

By 

Darrell L. Cochran, WSBA No. 22851  
darrell@pcvalaw.com  
Attorneys for Plaintiffs

**EXHIBIT 5**  
**MENDOZA I COMPLAINT**

9

**ORIGINAL**

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2012 MAR 13 PM 3:55

BETTY J. GOULD, CLERK

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

ALICIA MENDOZA, individually and as  
Guardian Ad Litem for M.M., a minor, G.S.J.,  
individually and as Guardian Ad Litem for J.J.,  
a minor,

Plaintiffs,

v.

OLYMPIA EARLY LEARNING CENTER,  
Defendant.

NO. 11-2-01912-5

AMENDED COMPLAINT FOR  
DAMAGES

COMES NOW, Plaintiffs, Alicia Mendoza, individually and as limited GAL for  
M.M., a minor, and G.S.J., individually and as GAL for J.J., a minor, by and through their  
counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as follows:

**I. PARTIES**

1. Plaintiffs Alicia Mendoza and minor child M.M., at all relevant times resided  
in Thurston County, Washington.

2. Plaintiffs G.S.J. and minor child J.J., at all relevant times resided in Thurston  
County, Washington.



1           3. Defendant Olympia Early Learning Center, at all relevant times conducted  
2 business in Thurston County, Washington. Defendant Olympia Early Learning Center  
3 operated at 201 Capital Way North and 420 McPhee Road SW, both in Olympia, Thurston  
4 County, Washington.

## 5                                   II. JURISDICTION AND VENUE

6           4. Plaintiffs live in Thurston County, Washington. Defendant operates its  
7 business in Thurston County.  
8

9           5. The tortious conduct which is the subject of this complaint occurred in  
10 Thurston County, Washington. Jurisdiction and venue is proper.

## 11                                  III. FACTS

12           6. Defendant Olympia Early Learning Center hired Elisha ("Eli") Eli Tabor as an  
13 employee on May 23, 2008. As Tabor has stated, Defendant hired him "on the spot" after his  
14 step-mother, Alana Tabor, an employee of Defendant Olympia Early Learning Center, alerted  
15 him to openings at the Center's West Olympia location where he then applied. In making this  
16 hire, Defendant Olympia Early Learning Center had a duty to protect its children by  
17 investigating Tabor's background, doing a reference check and conducting a complete  
18 interview designed to determine whether there were concerns about his character, behavior  
19 and conduct that could present a danger to the children. Defendant had an obligation to spend  
20 time doing a probationary training period assessing Tabor's suitability for childcare and  
21 establishing procedures to provide oversight to make sure neither Tabor nor any of the male  
22 staff used by Defendant would sexually molest the children. Defendant had an obligation to  
23 respond to any concerns with Tabor's conduct on the job and otherwise. Defendant neglected  
24 to do so with Tabor.  
25  
26

1           7.     In the late summer of 2007, Plaintiff Alicia Mendoza enrolled her son M.M.,  
2 age 2 months, in the Olympia Early Learning Center's facility.

3           8.     In July 2008, Plaintiff G.S.L. enrolled her developmentally disabled son J.J.,  
4 age 3, in the Olympia Early Learning Center's facility.

5           9.     In October of 2008, a parent of several children attending Defendant's West  
6 Olympia facility, Lisa Steel, complained to Defendant's Director of Operations, Rose  
7 Horgdahl, that Elisha Tabor posed a danger to the young children at the facility.

8           10.    On February 10, 2009, Lisa Steel reported to the OELC that her daughter  
9 disclosed that she had been sexually abused at the facility. A physical examination of the  
10 young girl revealed a scratch -- consistent with a fingernail cut -- inside her vagina. Ms. Steel  
11 specifically advised the school that as a result of her daughter's disclosure it was believed that  
12 Eli Tabor sexually abused her daughter. Defendant then misdirected police and CPS  
13 investigators to another male employee named "Eli", a man named Eli Nelson, who became  
14 the subject of the investigation and passed a polygraph, resulting in the case being closed and  
15 deemed "unfounded". But Ms. Steel and her husband, Doug Thompson, consistently asserted  
16 during the investigation that the abuser was Elisha Tabor, so directly in fact that the  
17 Defendant's administrators complained about the "attacks" by Ms. Steel and Ms. Thompson  
18 on Elisha Tabor.

19           11.    Defendant made no effort whatsoever to re-evaluate Tabor's suitability for  
20 childcare or to monitor the level of danger he posed. It also failed to warn parents, including  
21 Plaintiff Alicia Mendoza, about a potential danger posed by male staff members following the  
22 February 2009 investigation. The only action Defendant took was to move Tabor from the  
23 classroom for two-year-olds where he was molesting children to the classroom for the three-  
24 and four-year-olds where he began molesting children. Without a warning of any sort,  
25  
26

1 Plaintiff Alicia Mendoza continued taking their children to the facility for care by Tabor,  
2 among others. Without protections provided for the children, Tabor began molesting others in  
3 the daycare.

4 12. In August, 2009, Eli Tabor, on more than one occasion, transported J.J. from  
5 the OELC to his therapy appointments, then back to the center. J.J. was alone with Tabor and  
6 unsupervised. This unsupervised transportation was being provided by Tabor for J.J. with  
7 Director Rose Horgdahl's knowledge. Approximately one month later, J.J. left the OELC and  
8 began Kindergarten.

10 13. On October 7, 2010, Tabor was arrested in Olympia for Driving Under the  
11 Influence and later convicted on November 8, 2010. Tabor admitted to a severe drinking  
12 problem during this time.

14 14. On February 3, 2011, Eli Tabor was arrested for the rape of a child who  
15 attended the Olympia Early Learning Center. Tabor plead guilty to counts of Rape of a Child  
16 in the First Degree and Child Molestation in the First Degree on May 26, 2011, receiving  
17 nearly twenty years in prison as his sentence.

18 **A. Negligence – Defendant Olympia Early Learning Center's negligent care**  
19 **and supervision of and negligent hiring, training, supervision and retention of its**  
20 **employee.**

21 15. Plaintiffs incorporate all paragraphs above and below.

23 16. Defendant Olympia Early Learning Center contracted with Plaintiffs and  
24 undertook the duty to provide care and supervision for minor Plaintiff M.M., and was  
25 responsible for its care and supervision while it attended its care facility. Defendant  
26 specifically invited Plaintiff parents to rely on Defendant Olympia Early Learning Center to  
care for and supervise minor Plaintiff. Plaintiff's parent, justifiably relied on Defendant

1 Olympia Early Learning Center to exercise reasonable care in performing those duties.  
2 Defendant Olympia Early Learning Center owed a duty to exercise reasonable care in the  
3 investigation of, the hiring of, the probationary assessment of, the retention of, and the  
4 monitoring of its employee, Eli Tabor.

5 17. Defendant Olympia Early Learning Center breached its duty to provide for the  
6 reasonable care and protection of the minor Plaintiff. Defendant Olympia Early Learning  
7 Center knew and breached its duty to investigate the dangerous propensities of its employee,  
8 Eli Tabor. Defendant Olympia Early Learning Center failed to exercise reasonable care of  
9 hiring, assessment, retention and monitoring of Eli Tabor, and failed to implement procedures  
10 to assure that Eli Tabor would not be left unsupervised with children, including the minor  
11 Plaintiffs here.  
12

13 18. Defendant Olympia Early Learning Center breached its duty to provide  
14 reasonable care. Defendant Olympia Early Learning Center failed to implement procedures to  
15 assure that the minor Plaintiff was safe from Eli Tabor.  
16

17 19. Defendant's negligence directly and proximately caused significant damages.  
18 Specifically, minor Plaintiffs were sexually abused by an adult male staff member of  
19 Defendant Olympia Early Learning Center.  
20

21 20. The sexual abuse of the minor Plaintiff has caused damage to the relationship  
22 between the minor and its parents, Alicia Mendoza. The minor Plaintiff has shown signs of  
23 premature sexualization. Plaintiff's parent must now deal with the sexual abuse of the minor  
24 Plaintiff at the hands of Defendant Olympia Early Learning Center's staff member.

25 21. As a direct and proximate result of each of the negligent acts committed by  
26 Defendant Olympia Early Learning Center, the Plaintiffs sustained damages in an amount to  
be proven at trial.

**B. RCW 4.24.010 Loss of Consortium**

22. Plaintiffs incorporate all paragraphs above and below.

23. Plaintiff Alicia Mendoza is the parent of minor, M.M. As a direct and proximate result of Defendant's tortuous conduct, Plaintiff Alicia Mendoza has suffered a loss of consortium with her child. The trauma and stress caused by the abuse at Defendant Olympia Early Learning Center harmed their otherwise happy relationships with their children.

**C. Breach of Contract**

24. Plaintiffs incorporate all paragraphs above and below.

25. Plaintiff Alicia Mendoza entered into a valid contract for services with Defendant Olympia Early Learning Center.

26. Defendant Olympia Early Learning Center knew or should have known the dangerous proclivities of Eli Tabor.

27. Defendant Olympia Early Learning Center materially breached these contracts by failing to provide reasonable care and supervision as promised for Plaintiffs.

28. Defendant Olympia Early Learning Center retained full payment for services despite its failure to provide said services.

29. Plaintiffs are entitled to restitution for tuition payment provided to Defendant Olympia Early Learning Center, in addition to prejudgment interest.

**D. Breach of Implied Warranty**

30. Plaintiffs incorporate all paragraphs above and below.

31. Defendants Olympia Early Learning Center implicitly warranted that the daycare would provide reasonable supervision and care for Plaintiffs. Defendant knew or should have known the danger posed by Eli Tabor. However, Defendant Olympia Early

1 Learning Center failed to provide reasonable supervision and care for Plaintiffs. This was a  
2 direct violation of Defendant's implied warranty to Plaintiffs.

#### 3 IV. SPOILIATION OF EVIDENCE

4 32. Plaintiffs believe and therefore allege that various employees of Defendant  
5 Olympia Early Learning Center have destroyed key records concerning the knowledge the  
6 Defendant possessed about the danger Tabor posed to children. Plaintiffs seek a monetary  
7 recovery for the value of the destroyed evidence or, in the alternative, a presumption at trial  
8 that the evidence destroyed established Defendant's liability in the case.  
9

#### 10 VII. INJURIES AND DAMAGES

11 33. Plaintiffs incorporate all paragraphs above.

12 34. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs  
13 have suffered medical costs in an amount to be determined at trial. These special damages are  
14 continuing.  
15

16 35. As a direct and proximate result of Defendant's wrongful conduct, Plaintiffs  
17 have suffered damages including severe emotional distress, depression, anxiety, humiliation,  
18 embarrassment, and other physical and psychological symptoms in an amount to be proven at  
19 trial. These general damages are continuing.  
20

#### 21 VIII. PRAYER FOR RELIEF

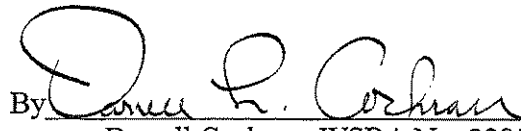
22 WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendant,  
23 for the general and special damages as allowed by law, for attorneys' fees and litigation costs  
24 in maintaining this action, and for prejudgment interest and such other relief as the Court may  
25 deem just.  
26

//

//

1 Dated this 13<sup>th</sup> day of March, 2012.

2  
3 PFAU COCHRAN VERTETIS AMALA PLLC

4  
5 By   
6 Darrell Cochran, WSBA No. 22851  
7 [darrell@pcvalaw.com](mailto:darrell@pcvalaw.com)  
8 Attorneys for Plaintiffs  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I, **Laura Neal**, hereby declare under penalty of perjury under the laws of the State of Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's date, I served via E-mail/ US Mail by directing delivery to the following individual:

Michael Bolasina  
Summit Law Group  
315 5<sup>th</sup> Ave. Ste. 1000  
Seattle, WA 98104-2682

DATED this 13<sup>th</sup> day of March, 2012.



Laura Neal  
Legal Assistant to Darrell L. Cochran

4836-3576-7822, v. 1



**EXHIBIT 6**  
**MENDOZA II COMPLAINT**

8

ORIGINAL

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2012 APR 12 AM 11:32

BETTY J. GOULD, CLERK

THE HONORABLE William Thomas McPhee

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

ALICIA MENDOZA, individually and as  
Guardian ad Litem for M.M., a minor, and  
G.S.J. individually and as Guardian Ad Litem  
for J.J., a minor,

Plaintiffs,

vs.

STEVE OLSEN, individually, and ROSE  
HORGDAHL, individually,

Defendant.

12 2 00788 5

COMPLAINT

COMES NOW, Plaintiffs, Alicia Mendoza, individually and as limited GAL for  
M.M., a minor, and G.S.J., individually and as GAL for J.J., a minor, by and through their  
counsel, Darrell L. Cochran of Pfau Cochran Vertetis Amala PLLC, to allege as follows:

I. PARTIES

1. Plaintiffs Alicia Mendoza and minor child M.M., at all relevant times resided  
in Thurston County, Washington.

2. Plaintiffs G.S.J. and minor child J.J., at all relevant times resided in Thurston  
County, Washington.

3. Defendant Steve Olsen, at all relevant times, resided and conducted business in Thurston County, Washington. Defendant Steve Olsen acted as the Executive Director of the Olympia Early Learning Center operated at 201 Capital Way North and 420 McPhee Road SW, both in Olympia, Thurston County, Washington. Defendant Rose Horgdahl, at all relevant times, also resided and conducted business in Thurston County, Washington. Defendant Rose Horgdahl acted as the site and/or program director for the Olympia Early Learning Center.

## II. JURISDICTION AND VENUE

4. Plaintiffs live in Thurston County, Washington. Defendant worked in Thurston County.

5. The tortious conduct which is the subject of this complaint occurred in Thurston County, Washington. Jurisdiction and venue is proper.

## III. FACTS

6. Defendants were involved in hiring Elisha ("Eli") Tabor as an employee on May 23, 2008. As Tabor has stated, Defendants hired him "on the spot" after his step-mother, Alana Tabor, an employee of Olympia Early Learning Center, alerted him to openings at the Center's West Olympia location where he then applied. In making this hire, Defendants had a duty to protect its children by investigating Tabor's background, doing a reference check and conducting a complete interview designed to determine whether there were concerns about his character, behavior and conduct that could present a danger to the children. Defendants had an obligation to spend time doing a probationary training period assessing Tabor's suitability for childcare and establishing procedures to provide oversight to make sure neither Tabor nor

any of the male staff used by Defendants would sexually molest the children. Defendants had an obligation to respond to any concerns with Tabor's conduct on the job and otherwise. Defendants neglected to do so with Tabor.

7. In the late summer of 2007, Plaintiff Alicia Mendoza enrolled her son M.M., age 2 months, in the Olympia Early Learning Center's facility.

8. In July 2008, Plaintiff G.S.L. enrolled her developmentally disabled son J.J., age 3, in the Olympia Early Learning Center's facility.

9. In October of 2008, a parent of several children attending The Olympia Early Learning Center's West Olympia facility, Lisa Steel, complained to Defendant Rose Horgdahl, that Elisha Tabor posed a danger to the young children at the facility.

10. On February 10, 2009, Lisa Steel reported to the OELC that her daughter disclosed that she had been sexually abused at the facility. A physical examination of the young girl revealed a scratch -- consistent with a fingernail cut -- inside her vagina. Ms. Steel specifically advised the school that as a result of her daughter's disclosure it was believed that Eli Tabor sexually abused her daughter. Defendants then misdirected police and CPS investigators to another male employee named "Eli", a man named Eli Nelson, who became the subject of the investigation and passed a polygraph, resulting in the case being closed and deemed "unfounded". But Ms. Steel and her husband, Doug Thompson, consistently asserted during the investigation that the abuser was Elisha Tabor, so directly in fact that the Defendant Horgdahl and others complained about the "attacks" by Ms. Steel and Ms. Thompson on Elisha Tabor.

1           11. Defendants made no effort whatsoever to re-evaluate Tabor's suitability for  
2 childcare or to monitor the level of danger he posed. They also failed to warn parents,  
3 including Plaintiff Alicia Mendoza, about a potential danger posed by male staff members  
4 following the February 2009 investigation. The only action Defendants took was to move  
5 Tabor from the classroom for two-year-olds where he was molesting children to the classroom  
6 for the three- and four-year-olds where he began molesting children. Without a warning of  
7 any sort, Plaintiff Alicia Mendoza continued taking their children to the facility for care by  
8 Tabor, among others. Without protections provided for the children, Tabor began molesting  
9 others in the daycare.  
10

11           12. In August, 2009, Eli Tabor, on more than one occasion, transported J.J. from  
12 the OELC to his therapy appointments, then back to the center. J.J. was alone with Tabor and  
13 unsupervised. This unsupervised transportation was being provided by Tabor for J.J. with  
14 Defendant Rose Horgdahl's knowledge. Approximately one month later, J.J. left the OELC  
15 and began Kindergarten.  
16

17           13. In July 2010, Defendants received a report that Eli Tabor was lying about kissing  
18 minor – S.A. on a sleeping mat in one of the Learning Center classrooms. Defendant  
19 Horgdahl wrote a discipline note for Eli Tabor about the conduct but neither she nor  
20 Defendant Olsen took further action.  
21

22           14. On October 7, 2010, Tabor was arrested in Olympia for Driving Under the  
23 Influence and later convicted on November 8, 2010. Tabor admitted to a severe drinking  
24 problem during this time.  
25  
26

1           15.     On February 3, 2011, Eli Tabor admitted to dozens of acts of sexual abuse,  
2 including anal sodomy, oral sodomy, and other acts of sexual abuse. He was arrested for the  
3 rape of a child who attended the Olympia Early Learning Center. Tabor pled guilty to counts  
4 of Rape of a Child in the First Degree and Child Molestation in the First Degree on May 26,  
5 2011, receiving nearly twenty years in prison as his sentence.  
6

7           **A.     Negligence – Defendants’ negligent care and supervision of and negligent**  
8 **hiring, training, supervision and retention of its employee.**

9           16.     Plaintiffs incorporate all paragraphs above and below.

10          17.     As directors of the Olympia Early Learning Center, Defendants Steve Olsen and  
11 Rose Horgdahl assumed responsibility to provide care and supervision for minor Plaintiffs,  
12 and were responsible for their care and supervision while they attended its care facility.  
13 Defendants specifically invited Plaintiff parents to rely on Defendants to care for and  
14 supervise minor Plaintiffs. Plaintiffs’ parents, justifiably relied on Defendants to exercise  
15 reasonable care in performing those duties. Defendants owed a duty to exercise reasonable  
16 care in the investigation of, the hiring of, the probationary assessment of, the retention of, and  
17 the monitoring of its employee, Eli Tabor.  
18

19          18.     Defendants breached their duty to provide for the reasonable care and protection  
20 of the minor Plaintiffs. Defendants knew and breached their duty to investigate the dangerous  
21 propensities of its employee, Eli Tabor. Defendants failed to exercise reasonable care of  
22 hiring, assessment, retention and monitoring of Eli Tabor, and failed to implement procedures  
23 to assure that Eli Tabor would not be left unsupervised with children, including the minor  
24 Plaintiffs here.  
25  
26

1           19. Defendants breached their duty to provide reasonable care. Defendants failed  
2 to implement procedures to assure that the minor Plaintiffs were safe from Eli Tabor.

3           20. Defendants' negligence directly and proximately caused significant damages.  
4 Specifically, minor Plaintiffs were sexually abused by an adult male staff member of  
5 Defendants.

6           21. The sexual abuse of the minor Plaintiff has caused damage to the relationship  
7 between the minor and its parents, Alicia Mendoza. The minor Plaintiff has shown signs of  
8 premature sexualization. Plaintiff's parent must now deal with the sexual abuse of the minor  
9 Plaintiff at the hands of Defendants' staff member.

10           22. As a direct and proximate result of each of the negligent acts committed by a  
11 male staff member under the control and supervision of Defendants, the Plaintiffs sustained  
12 damages in an amount to be proven at trial.

13  
14  
15           **B. RCW 4.24.010 Loss of Consortium**

16           23. Plaintiffs incorporate all paragraphs above and below.

17           24. Plaintiff Alicia Mendoza is the parent of minor, M.M. As a direct and  
18 proximate result of Defendants' tortuous conduct, Plaintiff Alicia Mendoza has suffered a loss  
19 of consortium with her child. Plaintiff G.S.J. is the parent of minor, J.J. As a direct and  
20 proximate result of Defendants' tortuous conduct, Plaintiff G.S.J. has suffered a loss of  
21 consortium with her child. The trauma and stress caused by the abuse at Olympia Early  
22 Learning Center directed by Defendants Steve Olsen and Rose Horgdahl harmed their  
23 otherwise happy relationships with their children.  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
**IV. SPOILIATION OF EVIDENCE**

25. Plaintiffs believe and therefore allege that various employees of Defendants have destroyed key records concerning the knowledge the Defendants possessed about the danger Tabor posed to children. Plaintiffs seek a monetary recovery for the value of the destroyed evidence or, in the alternative, a presumption at trial that the evidence destroyed established Defendants' liability in the case.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
**V. INJURIES AND DAMAGES**

26. Plaintiffs incorporate all paragraphs above.

27. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered medical costs in an amount to be determined at trial. These special damages are continuing.

28. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs have suffered damages including severe emotional distress, depression, anxiety, humiliation, embarrassment, and other physical and psychological symptoms in an amount to be proven at trial. These general damages are continuing.

19  
20  
21  
22  
23  
24  
25  
26  
**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that the Court enter judgment against the Defendants, jointly and severally, for the general and special damages as allowed by law, for attorneys' fees and litigation costs in maintaining this action, and for prejudgment interest and such other relief as the Court may deem just.


//

//



1 Dated this 11<sup>th</sup> day of April, 2012.

2  
3 PFAU COCHRAN VERTETIS AMALA, PLLC

4  
5  
6 By 

7 Darrell L. Cochran, WSBA No. 22851  
8 darrell@pcvalaw.com  
9 Attorneys for Plaintiffs  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26